

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF TEXAS**  
**TYLER DIVISION**

<b>CREATIVE INTERNET ADVERTISING CORPORATION,</b>  <b>Plaintiff,</b>  <b>v.</b>  <b>YAHOO! INC., and TIME WARNER INC., f/k/a AOL TIME WARNER INC., d/b/a AOL</b>  <b>Defendants.</b>	<b>CIVIL ACTION NO. 6:07-cv-354-LED</b>  <b>JURY DEMANDED</b>
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**ORIGINAL COMPLAINT**

Creative Internet Advertising Corporation (“Plaintiff”) files this Original Complaint against Yahoo! Inc. and Time Warner Inc. f/k/a AOL Time Warner Inc., d/b/a AOL (“Defendants”) for infringement of United States Patent No. 6,205,432 (“‘432 Patent”).

**JURISDICTION**

1. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking injunctive relief as well as damages.
2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.
3. Plaintiff Creative Internet Advertising Corporation is a Delaware corporation and is located in Newport Beach, California.

4. Defendant Yahoo! Inc. is a Delaware corporation with its principal office in Sunnyvale, California. Yahoo! Inc. may be served with process by serving its registered agent, The Corporation Trust Company, at Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

5. Defendant Time Warner Inc. f/k/a Time Warner AOL, d/b/a AOL ("Time Warner Inc.") is a Delaware corporation with its principal office located in New York, New York. Time Warner Inc. may be served with process by serving its registered agent, The Corporation Trust Company, at Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

6. On information and belief, Defendants' products that are alleged herein to infringe are made, used, imported, offered for sale and/or sold in the Eastern District of Texas.

7. This Court has personal jurisdiction over Defendants because Defendants have committed acts of infringement in this district; do business in this district; and/or have systematic and continuous contacts in this district.

#### **VENUE**

8. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391(c) and 1400(b), because Defendants are deemed to reside in this district. In addition, and in the alternative, Defendants have committed acts of infringement in this district and Defendants have a regular and established place of business in this district.

#### **INFRINGEMENT OF U.S. PATENT NO. 6,205,432**

9. Plaintiff incorporates paragraphs number 1 through 8 herein by reference.

10. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271 *et seq.*

11. Plaintiff Creative Internet Advertising Corporation is the exclusive owner and licensee of United States Patent No. 6,205,432 with rights to enforce the Patent and sue infringers.

12. A copy of United States Patent No. 6,205,432, titled Background Advertising System is attached hereto.

13. The '432 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

14. On information and belief, Defendant Yahoo! Inc. has infringed and continues to infringe on the '432 Patent by making, using, importing, offering for sale and/or selling products and services, among other things, covered by one or more claims of the '432 Patent, including, but not limited to, Yahoo Mail.

15. On information and belief, Defendant Time Warner Inc. has infringed and continues to infringe on the '432 Patent by making, using, importing, offering for sale and/or selling products and services, among other things, covered by one or more claims of the '432 Patent, including, but not limited to, AOL Instant Messenger (AIM) Expressions.

16. On information and belief, Defendants contributorily infringed one or more claims of the '432 Patent and continue to contributorily infringe one or more claims of the '432 Patent, pursuant to 35 U.S.C. § 271 in the United States, including in this judicial district.

17. On information and belief, Defendants have induced others to infringe one or more claims of the '432 Patent and continue to induce others to infringe one or more claims of the '432 Patent, pursuant to 35 U.S.C. § 271 in the United States, including in this judicial district.

18. Defendants' actions complained of herein will continue unless Defendants are enjoined by this Court.

19. This case is exceptional pursuant to the provisions of 35 U.S.C. § 285.

20. Plaintiff has complied with 35 U.S.C. § 287.

21. Defendants' actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendants are enjoined and restrained by this Court.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff asks the Court to:

- A. Enter judgment for Plaintiff on this Complaint;
- B. Enjoin Defendants, their agents, officers, servants, employees, attorneys and all persons in active concert or participation with Defendants who receive notice of the order from further infringement of United States Patent No. 6,205,432;
- C. Award Plaintiff damages resulting from Defendants' infringement in accordance with 35 U.S.C. § 284;
- D. Treble the damages in accordance with the provisions of 35 U.S.C. § 284;
- E. Find the case to be exceptional under the provisions of 35 U.S.C. § 285;
- F. Award Plaintiff reasonable attorney fees under 35 U.S.C. § 285;
- G. Order the impounding and destruction of all Defendants' products that infringe the '432 Patent;
- H. Award Plaintiff interest and costs; and
- I. Award Plaintiff such further relief to which the Courts finds Plaintiff entitled under law or equity.

Respectfully Submitted,



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